

REMARKS

In the Action, Claims 1, 2, and 4-12 are pending. Claims 1, 2, and 4-12 are rejected.

Claim 1 is objected to. Claim 1 has been amended. Claim 3 is cancelled. Claims 1-2 and 4-12 remain.

It is asserted in the Office Action that Claim 1 is objected to due to informalities. In response, Applicant believes that the referenced step (c) does, in fact, clearly indicate how the subsequent limitations further define the recited ring selection algorithm. However, Applicant has amended Claim 1 by changing the formatting of the claim slightly to delineate the three steps performed by the ring selection algorithm as set forth in the attached proposed claim amendments. By separating the three steps, it is clear how the subsequent limitations further define the ring selection algorithm.

Accordingly, reconsideration and withdrawal of the objection to Claim 1 is respectfully requested.

It is asserted in the Office Action that Claims 8-11 are rejected under 35 USC 103(a) as being unpatentable over Kalman et al. (US 6,680,912) in view of Kao et al. (US 7,212,490) and Walrand et al. (US 6,711,125). In response, Applicant notes that the Examiner relies upon the combination of Kalman et al., Walrand et al., and Kao. In the prior Office Action, the Examiner relied upon Doverspike et al. instead of Walrand et al. to supply the recited element of the transmission coefficient calculation being based on usage rate. In relying upon Walrand et al., the Examiner contends that Walrand et al. teaches using transmission rate, which the Examiner equates to usage rate, as a factor in determining preferable path. However, as pointed out in the prior response, the term usage rate as used by Applicant refers to an allowable transmission rate per node according to a fairness algorithm as set forth at page 11 of the Application. In this

connection, Walrand's transmission rate does not teach or suggest use of a fairness algorithm and, therefore, is not the same as or equivalent to Applicant's usage rate as that term is defined by Applicant, and used in the claims. In this connection, Applicant submits that Applicant is not attempting to read a limitation from the specification into the claims. Rather, Applicant's usage rate is a defined term which is not the same as the prior art transmission rate.

In addition, Applicant notes that Claims 9-11 depend from Claim 8 and are allowable for the same reason as noted above.

Accordingly, reconsideration and withdrawal of the rejection to Claims 8-11 under 35 USC 103(a) as being unpatentable over Kalman et al. (US 6,680,912) in view of Kao et al. (US 7,212,490) and Walrand et al. (US 6,711,125), is respectfully requested.

It is asserted in the Office Action that Claims 1, 2, and 4-7 are rejected under 35 USC 103(a) as being unpatentable over Kalman et al., Kao et al., and Walrand et al., as applied to claim 8 and further in view of Applicant's own admission. In response, Applicant notes that as to Claim 1 and its dependant Claims 2 and 4-7, Claim 1 also utilizes usage rate (see element (c)) as part of a selection criteria. Thus, Claim 1 is distinguishable over the combination of references relied upon by the Examiner for the same reasons as set forth with respect to Claim 8 as noted above.

Accordingly, reconsideration and withdrawal of the rejection of Claims 1, 2, and 4-7 under 35 USC 103(a) as being unpatentable over Kalman et al., Kao et al., and Walrand et al., as applied to claim 8 and further in view of Applicant's own admission, is respectfully requested.

Applicant submits that all pending claims, namely Claims 1-2 and 4-12 are now patentable over the Examiner's rejections and objections.

If there are any fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. If a telephone interview would expedite the prosecution of this Application, the Examiner is invited to contact the undersigned at (310) 207-3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN

Dated

4/15/08



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 4-15-08
Linda Marie Metz April 15, 2008